

UNITED STATES DISTRICT COURT  
DISTRICT OF PUERTO RICO

UNITED STATES OF AMERICA

Plaintiff

v.

TROPICAL FRUIT, S.E.; AVSHALOM  
LUBIN; CESAR OTERO ACEVEDO; and  
PEDRO TOLEDO GONZALEZ

Defendants

Civil Action No. 97-1442-DRD

**DEFENDANTS' TENDERED REPLY TO PLAINTIFF'S  
OPPOSITION TO MOTION REQUESTING ADDITIONAL EXTENSION OF TIME  
TO RESPOND TO MOTION FOR ORDER TO SHOW CAUSE**

TO THE HONORABLE COURT:

COME NOW defendants, represented by the undersigned counsel, and very respectfully allege and pray as follows:

1. On April 13, 2005, Plaintiff opposed defendants' request for an additional extension of time until May 6, 2005 to comply with the Court's order to show cause. (Docket No. 103)

2. Plaintiff contends that "the environment and the persons adversely affected by the pesticides used by Defendants" should not be forced to bear the burden of the request for extension of time. Nevertheless, in their Motion for Contempt (Docket No. 95 and No. 97) and in the Opposition, Plaintiff has failed to establish a single complaint which refers to Defendants' alleged failure to comply with the terms of the Consent Decree. There is simply no prejudice in allowing Defendants to present the evidence of their

continued efforts to comply with the Consent Decree, and of their numerous proposals to the Environmental Protection Agency (EPA) for the modification of certain aspects of the Consent Decree to no avail.

3. Contrary to Plaintiff's averments, Tropical Fruit has complied substantially and in good faith with the terms of the Consent Decree. Defendants should be allowed to fully present the evidence in support thereof and the extension of time requested to do so is merely 7 working days away. Consequently, Defendants respectfully submit that plaintiff will not be caused undue prejudice by the Court's granting of the request.

4. It should be noted that since the receipt of the documents of the case which were on dead file, Defendants have been working in the preparation of the motion to show cause and a meeting is being held today with Mr. Avshalom Lubin and Mr. Ilan Oliver on the matter.

5. For the foregoing reasons, Defendants respectfully reiterate their request for an additional extension of time until May 6, 2006 to respond to Plaintiff's Motion for Order to Show Cause.

WHEREFORE, it is respectfully requested from this Honorable Court that it grant defendants' request for additional extension of time until May 6, 2005 to comply with the Court's order to show cause.

Respectfully submitted.

In San Juan, Puerto Rico, on this 27<sup>th</sup> day of April, 2005.

I HEREBY CERTIFY that on April 27, 2005, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following: Mr. Henry Friedman, Esq., Environmental Enforcement Section, U. S.

Department of Justice, PO Box 7611, Washington, D. C. 20044; Isabel Muñoz, Assistant United States Attorney, Federal Building, Room 452 Chardon Avenue, Hato Rey, Puerto Rico 00918.

I HEREBY CERTIFY that I have mailed by United States Postal Service the foregoing document to the following non CM/ECF participants: German A. González PO Box 190764 San Juan, PR 00919-0764.

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